

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
JUNE 2, 2020**

**ITEM 8**

**SUBJECT**

OPPORTUNITY FOR PUBLIC COMMENT ON ALLOCATION OF CERTAIN FUNDS GENERATED FROM THE PETROLEUM STORAGE FEE, PURSUANT TO HEALTH AND SAFETY CODE SECTION 25299.43, SUBDIVISION (g)(3), FOR FISCAL YEAR 2021-2022

**DISCUSSION**

This is an annual informational item for public comment required by Health and Safety Code section 25299.43, subdivision (g)(3). The State Water Resources Control Board (State Water Board) hears public comments as part of the process for determining the allocation of \$0.003 per gallon from the existing \$0.02 per gallon petroleum storage fee among three specific accounts associated with prevention or cleanup of petroleum contamination and with investigation and remediation of surface or groundwater contamination. Following public comment, no action will be taken by the State Water Board, although the Board members may provide input to staff.

Health and Safety Code section 25299.43, subdivision (g)(2) requires \$0.003 (3 mills) of the existing \$0.02 per gallon petroleum storage fee be available, for expenditure by the board only for purposes provided in Section 25299.51, subdivision (o), for:

- (1) The Petroleum Underground Storage Tank (UST) Financing Account (Petroleum UST Financing Account) for grants and loans to small business underground storage tank (UST) owners and operators for compliance with UST regulatory requirements (including complying with the phase-out of single-walled tanks);
- (2) The School District Account for reimbursing costs associated with cleaning up contamination from leaking petroleum USTs at school district properties; and
- (3) The Site Cleanup Subaccount to fund sites undergoing or in need of investigation and remediation of harm or threat of harm caused by existing or threatened surface or groundwater contamination.

The Petroleum UST Financing Account is implemented by the Replacing, Removing, or Upgrading USTs (RUST) grant and loan program. The School District Account is implemented by the UST Cleanup Fund. The Site Cleanup Subaccount is implemented by the Site Cleanup Subaccount Program as a program of the UST Cleanup Fund.

In accordance with the State Water Board's recommendation after assessing each of these program's needs, the budget allocation in each of the past five fiscal years (FYs) and in the Governor's proposed FY 2020-21 budget has been an even split between the

Petroleum UST Financing Account and the Site Cleanup Subaccount, with none of the funds being allocated to the School District Account. The School District Account had (in 2015), and continues to have, sufficient funds to support school districts' needs without providing additional funds from the three-mill allocation. The amounts of the allocation have been based on estimates that the three mills will generate \$39.5 million annually, although actual and projected revenues have been higher (~ \$51 million per year). For FY 2021-22, State Water Board staff recommends changing the allocation from an even split between the Petroleum UST Financing Account and the Site Cleanup Subaccount to eighty-five percent (85%) to the Site Cleanup Subaccount and fifteen percent (15%) to the Petroleum UST Financing Account. This change will allow the State Water Board to meet the increasing needs for the Site Cleanup Subaccount Program, without negatively impacting the State Water Board's ability to fund eligible small business RUST grant and loan applications from the Petroleum UST Financing Account. The allocation will be proposed in accordance with the State Budget process. The State Budget process for FY 2021-2022 will begin with publication of the Governor's Budget in January 2021 and a May 2021 Budget Revision, and adoption of the State Budget some time thereafter.

Annual expenditures for the Petroleum UST Financing Account are increasing as a result of State Water Board staff outreach, changes in regulations, and the requirement that all single-walled USTs, including single-walled piping, must be permanently closed in accordance with Health and Safety Code section 25292.05 by December 31, 2025. Since 2015, the RUST Program has funded 291 grants and loans valued at approximately \$44.5 million out of \$71.8 million allocated. Staff expects to fund an additional 50 grants and loans, valued at \$15 million, in fiscal year 2020-2021, leaving an estimated account balance (allocations minus funded minus reverting funds) of approximately \$59 million. The Petroleum UST Financing Account is projected to have sufficient funding to meet demand even with reduction in retail fuel sales due to the COVID-19 emergency. Therefore, reducing the amount of funding allocated to the Petroleum UST Financing Account as recommended will not negatively impact the State Water Board's ability to fund eligible RUST grant and loan applications.

Annual expenditures for the Site Cleanup Subaccount will likely increase as more cleanup projects are identified. The State Water Board has funded 74 projects, valued at approximately \$68 million, since 2015, and expects to fund an additional 24 new projects in fiscal year 2020-2021. The total appropriation (since 2015) of \$74.1 million has been committed. SCAP staff has been made aware of additional sites requiring investigation and remediation; however, there are not sufficient funds in the Site Cleanup Subaccount for these projects. Changing the funding allocation and authority as proposed by staff would result in a total of approximately \$43 million being allocated to the Site Cleanup Subaccount to meet these unmet demands.

As required by statute, the State Water Board is providing this opportunity for comment regarding the State Water Board's recommendation for the allocation of the funds collected from the three mills (\$0.003 / gallon) set aside of the petroleum storage fee. Following public comment, no action will be taken by the State Water Board, although the Board members may provide direction to staff.

## **POLICY ISSUE**

How should the State Water Board recommend that specified funds collected pursuant to Section 25299.43, subdivision (g)(2) of the Health and Safety Code be allocated among the purposes provided in section 25299.51, subdivision (o)?

## **FISCAL IMPACT**

No additional fiscal impact to currently budgeted program resources.

## **REGIONAL BOARD IMPACT**

Regional Water Quality Control Board staff provide management and/or regulatory oversight for most of the projects funded by the Site Cleanup Subaccount.

## **HUMAN RIGHT TO WATER ANALYSIS**

This budget allocation recommendation will support California's Human Right to Water law and help ensure that communities relying on water containing human-caused groundwater contamination have a reliable drinking water supply. The grants and loans that will be awarded with these funds will address environmental justice issues and disadvantaged communities by providing financial assistance to clean up sites for which responsible parties do not have the ability to pay. These funds will enable cleanup of soil and groundwater pollution that causes or threatens harm to human, health, safety, and the environment.

## **STAFF RECOMMENDATION**

Accept public comment on recommended allocation of the three mills. State Water Board staff recommends the following division of revenues: allocate 85% to the Site Cleanup Subaccount and 15% to the Petroleum UST Financing Account; do not allocate any funds to School District Account.